

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

BOARD OF TRUSTEES OF THE SHEET  
METAL WORKERS' LOCAL UNION  
NO. 80 INSURANCE TRUST FUND,  
Plaintiff,

v.

Case No. 2:13-CV-10415  
Honorable Patrick J. Duggan

BLUE CROSS AND BLUE SHIELD  
OF MICHIGAN,  
Defendant.

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**OPINION AND ORDER GRANTING  
DEFENDANT'S MOTION FOR STAY PENDING APPEAL**

On February 1, 2013, Plaintiff filed this lawsuit– one of more than twenty similar civil actions now pending in this District– against Defendant Blue Cross and Blue Shield of Michigan (“BCBSM”). In its Complaint, Plaintiff alleges violations of state and federal law arising out of BCBSM’s administration of Plaintiff’s self-funded employee health benefit plan. Presently before the Court is BCBSM’s Motion for Stay Pending Appeal (“Motion for Stay”) (ECF No. 14), filed July 19, 2013.

In its motion, BCBSM asks the Court to stay these proceedings pending its appeal of Judge Victoria A. Roberts’ decisions in one of the related cases: *Hi-Lex Controls, Inc. v. Blue Cross and Blue Shield of Michigan*, No. 11-12557, 2013 WL

2285453 (E.D. Mich. May 23, 2013), *appeal docketed*, Nos. 13-1773 and 13-1859 (6th Cir. June 25, 2013). BCBSM argues that a stay is warranted because this action involves issues and claims against it which are substantially similar to those decided in *Hi-Lex* and thus “proceeding risks great waste of the parties’ and the Court’s resources should Blue Cross prevail on appeal.” (Def.’s Mot. at 2, ECF No. 14.) BCBSM points out that the undersigned and other judges in this District (including Judge Roberts in the remaining eight related cases pending before her) have issued stays pending the Sixth Circuit’s decision in *Hi-Lex*.

Plaintiff opposes a stay. In addition to some of the arguments raised by the plaintiffs opposing a stay in the related cases— which did not persuade this Court to deny BCBSM’s motions to stay in the other related cases assigned to it— Plaintiff points out that the Sixth Circuit recently issued a decision in *Pipefitters Local 636 Ins. Fund v. Blue Cross and Blue Shield of Michigan*, – F.3d –, 2013 WL 3746217 (6th Cir. July 18, 2013). Plaintiff contends that *Pipefitters 636* resolves the liability issues which will control the present action and govern the appeal in *Hi-Lex*.

The Sixth Circuit’s decision in *Pipefitters 636* may resolve some of the issues which this Court will have to decide in the pending matter. Nevertheless, this Court believes that the pending matter presents other substantial issues which

the appellate court did not address and/or decide. Moreover, no mandate has yet been issued in *Pipefitters 636* and a request has been made in *Hi-Lex* for an expedited decision. Thus the Court continues to conclude that a stay pending the appeal in *Hi-Lex* is appropriate in the related cases, including this one, and will not pose substantial delay and/or prejudice to Plaintiff.

Accordingly,

**IT IS ORDERED** that Defendant Blue and Cross Blue Shield of Michigan's Motion for Stay Pending Appeal is **GRANTED** and this matter is **STAYED** until such time as the appeals process in *Hi-Lex*, including any appeal and proceeding on writ of certiorari to the United States Supreme Court, is exhausted;

**IT IS FURTHER ORDERED** that Defendant Blue Cross and Blue Shield of Michigan shall notify this Court when the Sixth Circuit Court of Appeals issues a decision in *Hi-Lex*.

Date: August 12, 2013

s/PATRICK J. DUGGAN  
UNITED STATES DISTRICT JUDGE

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